

The Western Democrat

OFFICE ON THE SOUTH SIDE OF TRADE STREET

CHARACTER IS AS IMPORTANT TO STATES AS IT IS TO INDIVIDUALS, AND THE GLORY OF THE ONE IS THE COMMON PROPERTY OF THE OTHER

\$3 Per Annum IN ADVANCE

WM. J. YATES, EDITOR AND PROPRIETOR

CHARLOTTE, N. C., TUESDAY, JUNE 4, 1867.

FIFTEENTH VOLUME--NUMBER 770.

THE WESTERN DEMOCRAT (Published every Tuesday) BY WILLIAM J. YATES, EDITOR AND PROPRIETOR.

TERMS: \$3 PER ANNUM in advance. \$2 for six months. Transient advertisements must be paid for in advance.

A LARGE STOCK OF SPRING GOODS

Fine white and colored Marcelline Quilts, just received at BARRINGER, WOLFE & CO'S.

Ladies' French Dimitry Skirts, India Twilled Long Cloth, Linen Dress Goods, Extra Fine Lace Collars and Cuffs, Valenciennes Lawe, Clery Laces, Black Silk Gaper Laces.

Irish Linen of an extra quality; Bleached Shirting, extra quality. Call soon.

Black Chiffon for Mourning Dresses, English Craple and English Craple Veils, at BARRINGER, WOLFE & CO'S.

April 15, 1867.

GREATLY REDUCED PRICES.

Being about to make important changes in the construction of my store, which when completed will make it one of the most attractive Store rooms in the city, and in order to prepare for the workmen to be employed on the same, I now offer to the Public my entire Stock of Goods, originally bought low, at

Amazingly Reduced Prices.

Wholesale and Retail Dealers will find it to their interest to see me before purchasing elsewhere.

A. SINGLAIR, Springs' Corner.

May 13, 1867.

JUST RECEIVED AT

C. M. QUERY'S NEW STORE,

A large and well selected Stock of

SPRING AND SUMMER GOODS.

DRY GOODS, at extremely low prices.

WHITE GOODS, a full assortment, which will be sold low for cash.

TRIMMINGS—Our stock of Trimmings is complete, and well selected with care.

A full assortment of YANKEE NOTIONS and FANCY GOODS.

HATBOX SKIRTS—Bradley's Paris Trail Skirts—the most popular Skirt now worn—all sizes—Ladies, children and Misses.

KID GLOVES—all colors and sizes, of the best article. Ladies' and Children's Mitts, all sizes, and of the best quality.

FANS AND PARASOLS—A full assortment of all kinds.

SHOES—Ladies', Children's and Misses' boots, shoes and gaiters, of the best Philadelphia make. Also, Men's and Boy's shoes and hats.

MILLINERY.

MRS. QUERY would inform her friends that she has opened no pains in selecting her stock of Millinery and Trimmings; and having had a long experience in the business, feels satisfied that she can please all who will favor her with a call.

Bonnets and Hats made and trimmed to order, on the most reasonable terms, and shortest notice.

Drumstie Cut, Fitted, Trimmed and made, on reasonable terms, and at short notice.

Our terms are strictly Cash. Our motto is, small profit, and just dealing to all.

April 1, 1867.

BONES WANTED.

A Chance to Make Money.

The subscriber will purchase Bones at 50 cents per hundred, delivered at Concord Factory, or at any Railroad Depot between Charlotte and Greensboro. Cash paid on delivery.

Those who will accumulate Bones in quantities at any point on the Railroad lines, and inform the subscriber, arrangements will be made for their purchase.

R. E. McDONALD, April 1, 1867.

DRY GOODS, CLOTHING, BOOTS, SHOES, &c., &c.

D. BLUM,

Respectfully informs the public that he has a large stock of Dry Goods, Clothing, Boots and Shoes, in great variety, which he will sell on reasonable terms.

RAGS WANTED.

I want to purchase 200,000 pounds of clean cotton and linen Rags. Highest cash price paid.

D. BLUM, April 8, 1867.

H. M. PRITCHARD,

PRODUCE AND PROVISION DEALER.

The highest cash prices paid for all kinds of Produce.

Always on hand at the lowest prices all kinds of

GROCERIES

and Family Supplies.

I have recently resumed business in my own proper name and shall be thankful to friends and the public for patronage.

OLD STAND OPPOSITE COURT HOUSE.

H. M. PRITCHARD, Charlotte, N. C., April 15, 1867.

COOKING STOVES,

OF THE NEATEST AND MOST SUPERIOR PATTERNS.

D. H. BYERLY,

Springs' Building, Charlotte, N. C.

Has for sale "Spray's Anti-Dust Cooking STOVES," which, for every variety of cooking and great economy in fuel, cannot be surpassed by any Stove heretofore used.

Everybody who has used one of these Stoves testify that, for convenience in cooking, durability and cleanliness, they are far preferable to all other patterns. Call and see them.

D. H. BYERLY has also on hand a good assortment of Tin, Japan and Sheet-Iron Ware—such articles as are necessary for house-keeping.

TIN-WARE made to order at short notice on reasonable terms.

REPAIRING promptly executed.

D. H. BYERLY, Springs' Building, Charlotte, N. C. March 25, 1867.

IMPORTANT OPINION OF THE ATTORNEY GENERAL OF THE U. S. WHO ARE DISFRANCHISED BY THE RECONSTRUCTION ACTS.

The Attorney General has prepared the following opinion upon the clauses of the Reconstruction act with reference to voting and holding office. The provisions relative to the duties and powers of commanding officers, etc., will be considered in a future opinion:

ATTORNEY GENERAL'S OFFICE, Washington, May 24th, 1867. THE PRESIDENT: Sir—I have the honor to state my opinions upon the questions arising under the act of March 24, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act of March 23d, 1867, entitled "An act supplementary to an act entitled an act to provide for the more efficient government of the rebel States," upon which questions military commanders of districts in which these States are comprised have asked your instructions.

The first and most important of these questions may be thus stated: Who are entitled to vote, and who are disqualified from voting at elections provided for or coming within the purview of these acts? The first provision upon this subject is to be found in the fifth section of the original act, and declares the qualifications and disqualifications of voters for an election to be held for delegates to a proposed constitutional convention in each State, and for the election to be held for the ratification of a constitution that may be framed by such convention. That section provides that delegates to such convention shall be elected by the male citizens of said State twenty-one years old and upwards, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law; that the same qualifications so required for the election of delegates shall also be required upon the election for the ratification of the Constitution. This provision also excludes from the right to vote for delegates to a convention every person excluded from the privilege of holding office by an amendment to the Constitution of the United States proposed by the thirty-ninth Congress, and known as article 14th.

The sixth section provides that until the people of the said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, or control or supersede the same; and in all elections to any office under such provisional governments, all persons shall be entitled to vote (and none others,) who are entitled to vote under the provisions of the sixth section of this act, and no person shall be eligible to any office under any such provisional government who would be disqualified from holding office under the provisions of the third article of the said constitutional amendment.

It is to be observed here that the qualifications of a voter are, by the fifth section, limited to the election of delegates to the Convention, and to the question whether such Convention shall or shall not be held, and that no qualification is declared for a delegate so to be elected. But, by the 6th section, the same qualifications as to a voter are required in all elections to any office under the existing provisional governments during their continuance, and as to the eligibility at such elections certain classes are excluded.

The 1st section of the supplementary act provides that the Commanding General in each district shall cause registration to be made of the male citizens of the United States twenty-one years of age and upwards, residents in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the original act. The person offering himself for registration is also required to take an oath, which for convenience I now divide into paragraphs or sections, preserving as near as may be the language of the act. He must swear or affirm as follows:

First. That he is a citizen of the State, and has resided in said State for a month next preceding the day when he takes the oath, and that he now resides in the county of —, or in the parish of —, in said State.

Second. That he is twenty-one years old.

Third. That he has not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States.

Fourth. That he has never been a member of any State Legislature, nor held any executive or judicial office in any State and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to any enemies thereof.

Fifth. That he has never taken an oath as a member of Congress of the United States or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to any enemies thereof.

Sixth. That he will faithfully support the Constitution and obey the laws of the United States, and will, to the best of his ability, encourage others to do so.

The second section of this act provides that, after the completion of this registration in any State, and after at least thirty days' notice of the time and places which the commanding General shall appoint and direct, an election shall be held for delegates to a convention, and a rule is given to fix the number of delegates to be elected and the appointment of these delegates in proper civil sub-divisions, giving to

each sub-division representation in ratio of the registered voters.

The third section provides that, at the election for delegates, registered voters shall vote for or against a convention.

The fourth section provides for an election to ratify the constitution that may be framed by the delegates, and the right to vote at this election is confined to persons registered.

The sixth section provides that all elections in the States mentioned in said original act shall, during the operations of such act, be by ballot, and all officers making said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take an oath prescribed by the act of July 24, 1862, entitled "an act to prescribe an oath of office."

The first consideration which requires my attention, upon the question as to the right to vote, arises upon the registration of voters.—The question of qualification or disqualification is fixed by registration. No power is given to any other board, or any other authority, after registration is completed, to change the registry. Persons whose names are admitted to registration are entitled to vote, subject to the limitation hereinafter mentioned, and none other. This registration must be completed before the 1st day of September, 1867. The functions of the board, as a board of registration, cannot be extended beyond that fixed time, but after that, the duties which remain to be performed by the officers superintending elections and making the proper returns to the Commanding General. This brings us to the direct question—Who are entitled to registration?

First—As to citizenship and residence—no person is entitled to vote who shall not be resident in the State for one year previous to the day of election. It is not necessary that this previous residence for a year should exist at the time the person applies for registration. A person in all other respects entitled to vote is entitled to registration, although he has not at that time been a resident of the State for a full year, for we find in the supplemental act that the oath as to residence does not require the applicant to swear that he has then been a resident for a year, but only requires him to state the number of months of his residence, contemplating a period less than, as well as a full term of twelve months. Therefore, as to a person so registered, if it happen at any election subsequently to be held that the time of his residence, counting from the day of election, does not cover an entire year, he cannot vote at such election, for this supplemental act does not, as to residence, change the provisions of the original act, as it is expressly provided by it, as to registration, that it shall include only those who are qualified to vote by the original act.—To carry out the purposes of the law in this respect, as to residence, the Board of Registration should note opposite to the name of the person whose residence has not extended to the full term, the exact time of his residence.

As to citizenship, the qualification stated in the original act is citizenship of the State, but by the first clause, first section of the supplemental act, registration is to be made of male citizens of the United States. As to the oath, the applicant is only required to swear that he is a citizen of the State. I am of opinion that the phrase "citizen of the State," as used in the oath, is intended to include only such persons as are citizens of the United States and citizens of the State, and that an alien, who has not been made a citizen of the United States, cannot safely take the oath, but as the Board of Registration have only the authority to administer the prescribed oath, they cannot require any further oath or proof as to citizenship, and if an alien, not made a citizen of the United States, takes the oath, he takes it at his peril, and is subject to prosecution for perjury.

Second. As to age, no one is entitled to registration who is not at least 21 years of age on the day he applies for registration. In this respect qualification as to age differs from qualification as to residence, and the fact that majority must exist at the date of registration, has relation to the day of registration and not to the day of subsequent election.

Third. Next, as to disfranchisement, I shall consider the various clauses of disfranchisement according to the order and division into sections herebefore stated; and, first, as to the general clause declaring disfranchisement. The fifth section of the original act denies the right to vote to such as may be disfranchised for participation in the rebellion, as for felony at common law. The words here used, "in the rebellion," must be taken to mean the recent rebellion, but the supplemental act enlarges the disqualification, and requires the applicant to swear that he has not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States. What then works a disfranchisement under these provisions? Whether we consider this disability as arising out of participation in a rebellion, or the commission of a felony, the mere fact of such participation, or commission of a felonious offence, does not of itself work disfranchisement. It must be ascertained by the judgment of a court, or by a legislative act passed by competent authority. Disfranchisement for felony committed against the laws of a State or of the United States, consequently on a conviction in the courts, either of the United States or of a State, or declared by the laws of either, would be fatal under these acts. I am not aware of any law of the United States which works disfranchisement as to the right of suffrage by force of the act itself, nor does such consequence follow from a conviction for treason or conspiracy to commit treason, or for any other act of participation in rebellion. The provision in the Constitution of the United States, as to treason against the United States, does not declare that shall be the punishment on conviction of treason. That is left for Congress with the limitation that corruption of blood shall not follow as a consequence, nor any forfeiture except during the life of the party. Congress, in the exercise of its power declares the punish-

ment and has limited such punishment, as the consequence of conviction, to the penalty of imprisonment, and the manumission of slaves owned by the party, and to the disqualification from holding any office under the United States.

I am not advised of any statute now in force in either of these ten States, except, perhaps, Virginia, which declares disfranchisement as to right of suffrage by force of the act itself. The fourth and fifth sections may be considered together. Parties applying for registration must swear that "I have never been a member of any State Legislature nor held any executive or judicial office in any State, and afterwards engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies thereof; that I have never taken any oath as a member of the Congress of the United States, or as an officer of the United States, or as an executive or judicial officer, of any State, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof." These clauses of the oath in effect extend disfranchisement beyond the provisions of the original act, and the prior clauses of the oath itself, in the important particular that neither conviction, nor the judgment of a court, nor an express legislative enactment, is required to establish the fact of disfranchisement. In legal parlance disfranchisement, under these clauses of the oath, results from matters *ex parte*, but, in one respect, these clauses limit the generality of the original act as to the disfranchisement. The original act contemplates disfranchisement under these clauses that does not arise from participation in rebellion alone, but other elements must concur, that is to say, holding certain offices, or taking official oaths by certain officers, and afterwards participating in rebellion against the United States. The consideration of these two clauses leads to two distinct subject matters of inquiry: first, What offices or offices are comprehended? Second, What acts amount to engagement in insurrection or rebellion against the United States, or giving aid or comfort to the enemies thereof? I will first consider what office or offices are comprehended. As to some offices there is no room for doubt. Members of State Legislatures and members of Congress are clearly enough designated. The question might, however, arise whether a Convention, held in a State for the framing or amendment of its Constitution, would answer the description of a State Legislature within the meaning of the act? Such a Convention, although it is clothed with legislative power, cannot properly be denominated a State Legislature, and in the acts now under consideration a Convention and a Legislature are expressly distinguished from each other, for they require a Constitution to be framed by a Convention and they require the Legislature of the same State to adopt the constitutional amendment. Where, then, in the same acts, they again use the phrase "Legislature of the State," they must be understood to use it in the same sense, and as distinguished from a Convention. But as to these legislative bodies, which passed what are called ordinances of secession, by whatever name they may have been called, I am of opinion that their members are properly comprehended within this disqualifying clause, for I can imagine no official legislative position in which the duty of allegiance was more distinctly violated.

The next, more difficult inquiry, is who is to be considered an officer of the United States, or an executive or judicial officer of any State within the meaning of these clauses? Various classes of officers are here intended—State officers and Federal officers, and executive or judicial officers. No legislative officer is mentioned except a member of a State Legislature or member of Congress. Descriptions used as to other officers are as to State officers—that they must be judicial or executive; and to Federal officers, the terms "judicial" or "executive" are not expressed. He is described simply as an officer of the United States. It has been shown that Federal officers and State officers are classified separately in the clauses of the act under consideration. I deem it profitable and conducive to a clear order to follow that classification. I shall accordingly first consider what State officers are included in the terms executive or judicial. This phrase is twice used in these clauses, with the superadded description, "in any State." "In any State" in the first clause, and of any State in the second clause. I think the controlling term of description, if there is any repugnancy in the terms, must be taken to be the last, for that is used in the first clause and others besides. It is the same term of description used in the act of Congress of 1789, declaring what State officers are required to take the oath to support the Constitution of the United States, and in the third section of the constitutional amendment. Both use the same terms of description, "executive and judicial officers of the State." The terms are so general and indefinite that they fall to express with sufficient certainty a designation of the persons intended to be reached. It is to be regretted, in a matter of so much importance, that the rule of designation adopted as to members of Congress and of a State Legislature had not been followed up, or, if that were impracticable, that some more definite general rules had not been declared. The uncertainty becomes manifest in the application of the law, and this uncertainty necessitates construction. The necessity for construction, which arises from the generality of the law, cannot be better stated than in the language of Plowden: "Though the words be general, they are to be reduced to a particularity by exposition made according to the intent of the act. Those statutes which comprehend all things in the letter, the sages of the law have expended to extend to but some things. Those which generally prohibited all people from doing such an act, they have interpreted to permit some persons to do; and those which include every person in the letter, they have adjudged to reach some persons only—all founded upon the intent, which is collected by considering the cause and necessity of the act and comparing one part with another, and sometimes by foreign circumstances." I deem it

proper here to fix some clear ideas of the general intent of these acts, and by what right of construction, strict or liberal, that intent may best be arrived at. The intent, as expressed, is to enable the people of each of these States to frame a Constitution for the State by the exercise of the right of suffrage. There are clauses of the act giving the right by general terms of description to the people generally, and especially to those who have never enjoyed the right before. There are other clauses of the act which, by general terms, take away this right of suffrage from those who have always enjoyed it. The rule of construction as to the clauses which give the right must be liberal, and, as therein, the general terms are not to be restricted. But as to those clauses which derogate from the existing right, the rule of construction must be strict—that some should be excluded who are not clearly within the letter and intent.

I begin here with the inquiry whether officers of the military of the State are embraced within these terms of description, and I have no doubt they are not. Certainly Congress, as to the officers of a State, was not content to use the terms at large and without qualification. If Congress had intended to qualify, the usual words to manifest that intent would have been adopted, and the words would have been "the judicial and executive, the civil or military officers of the State." Accordingly we find that when that was proposed, as we see it was in the 3d section of the constitutional amendment, in article 4th, Congress expresses that purpose very clearly. That section provides that no person shall be a senator or representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States, or under any State, who, as a member of any State Legislature, or as an executive or judicial officer of any State, took an oath to support the Constitution of the United States, and shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. This 3d section is expressly referred to more than once in these acts. It is made in fact a part of these acts. Its language is followed, word for word, in these disqualifying clauses, as far as was practicable, except in the particular in which one is made to apply to eligibility, and the other to the right to vote. When, therefore, we find that Congress, in declaring what persons shall be disfranchised from holding any office, expressly includes military as well as civil officers, as in the 3d section of the amendment, and in providing what persons shall be disfranchised from voting who held office, omit to mention military officers, we cannot escape the conclusion that military officers were not here within their contemplation. It is impossible to imagine a case in which the construction from laws *in pari materia* has a more cogent application, for it is evident here that the law maker, in framing a disqualification for voters, took special cognizance of the 3d section of the amendment, and weighed it word by word, following it literally for the most part, and rejecting deliberately the very word intended to embrace a military officer. It must be borne in mind that we are here considering the class of military officers, who were such prior to the rebellion, when the office was lawful, and who were officers of the militia, not that class who became military officers during the rebellion. As to this last class, they all came under that other clause of disqualification which applies to participation in rebellion.

Having the inquiry thus circumscribed to civil officers, the question recurs what civil officers are to be brought within the terms "executive or judicial officers of a State." They clearly include, so far as executive officers are concerned all such officers as are generally known by the proper description of State officers or officers of a State. In one sense, and in a popular sense, a description of the executive officers of a State is applicable to a well-known class—the Governor, Lieutenant Governor, Auditor, Treasurer, Secretary and State officials proper, who exercise executive functions at the seat of Government. I am not prepared to say that only these proper State officials come within this term of description; nor am I prepared, as to the judicial officers of the State, to limit the description to Judges of courts whose jurisdiction extends over the entire State. I must content myself in saying of these officers, executive or judicial, that they are clearly within the meaning of the law. Now changing the inquiry from an affirmative to a negative process, such officers as usually pass under the description municipal, do not come within the purview of the act, such as the officers of cities, towns, villages or subordinate municipal divisions, whether their functions are executive and judicial, or as is sometimes the case where the same officer acts in both capacities.—Outside of these two representative classes, the first of which is clearly within, and the last of which is clearly without the purview of these clauses, we find in each of these States a host of officers whose status is in some way to be determined. It is impossible here to proceed by way of enumeration and to distinguish by name all those who are included and all those who are excluded. All that can be done is the re-establishing of some fixed rule.

I feel under the necessity of circumspection here in saying who are included within the disfranchisement rather than in saying who are not included, for where there is doubt, according to the rule of construction which has been referred to, that doubt must be solved in favor of rather than against the right of the voter. The exclusion is all comprehensive as to time, and applies not only to those who were in office when the rebellion commenced, but to those who held the prohibited offices at any time previous, although they may have ceased to hold such office an indefinite number of years prior to the rebellion. It is founded on the idea of a breach of official trust due to the State as the author or donor of the trust. It is founded on the idea of a breach of trust not arising merely from allegiance as a citizen, but from duty to the State in a direct official relation to that State, and through that to the Federal Government, so far as this designates by name the persons who violate such a trust is especially confined, that is to say, to persons who were clothed with the legislative power. Whereas, in this instance there is a purpose of exclusion on a com-

mon ground, and one class is designated as coming within the purpose, and other classes are left indefinite, and only to be ascertained by construction—it is allowable to find the indefinite class by the rule of assimilation. We see, then in this law, a purpose of exclusion as to the three great departments of a State, legislative, judicial and executive. We see, further, that as to the legislative department, made up of a legislative body composed of members and various officers appertaining to such body as a legislature, the exclusion is only of the higher functionalities of that body—the members—and is not carried to its subordinate officers. The terms of exclusion are not "the members and officers of a State legislature, but simply "the members of a State legislature."

As, therefore, the exclusion in the legislative department has effect only on the highest class in that department, it is safe to say that the same policy of exclusion attaches rather to such officers that exercise functions of important trust in the executive and judicial departments, than to those whose functions and duties are merely limited and subordinate. I have already called attention to the comprehensiveness of these exclusions as to time. Now, to declare them equally comprehensive as to persons, and to say that they embrace all officers, large and small, coming within the description of executive or judicial officers who have at any time during their lives held any one of these offices, would have this inevitable result—that in the formation of a constitution for a State, by the agency of its own people, a large proportion, perhaps a majority of the most intelligent and capable of the people would be excluded. There is no part of my duty, in attempting to give construction to these laws, in which I find myself involved in such painful uncertainty, as in determining what officers, outside of the classes already designated, come within the just range of exclusion. I have said that in addition to the class of officers who clearly come within the terms of the act, as judicial and executive officers, and to those classes which comprehend militia officers and municipal officers who clearly do not come within the terms of the act, there remains a vast body of officers whose status is in some way to be defined. These are known, in popular language, by such terms as description as "county, township and precinct officers." Their name is legion—their functions and duties are, for the most part, strictly local. Some of them, such as sheriffs and justices of the county courts, have jurisdiction over the entire county, others are restricted to the smallest civil sub-divisions.

I have directed abstracts to be prepared for each of those States, which will exhibit all those offices and the duties which appertain to them, and the form of oath required. I must reserve for further consideration, after the abstracts are made, the question whether all of them, or if not all, what classes of these officers come within the disqualification. As to all other executive or judicial officers who are not, in popular language, characterized as county officers, I incline to consider them as coming under the description of executive and judicial officers of a State, within the meaning of these laws. I deem it proper here, in reference to that class of officers, judicial or executive, who are, by the rule I have laid down, brought within the operations of disfranchisement, to distinguish a class whose duties are not localized, who stand in direct relation to the State, and who, in my opinion, cannot properly be designated as executive or judicial officers of the State. I mean that class of persons who exercise special public duties, rather in the nature of occasional employment than general and continuing official duty. This distinction between office and employment, and between an officer of a State is well established. Chief Justice Tilghman, in 3 Serge and Rawle 149, recognizes it in the case of commissioners appointed to lay out roads and canals, and other works of internal improvement. The question arose upon a section in the constitution of Pennsylvania, which provided that the Governor shall appoint all officers whose offices are established by this constitution or shall be established by law, and whose appointments are not herein otherwise provided for."

The Chief Justice said: "It has never been ascertained nor is it easy to ascertain to what offices this power extends. I speak of offices created by law since the making of the Constitution. The word office is of very vague and indefinite import. Everything concerning the administration of justice, or the general interest of society, may be supposed to be within the meaning of the Constitution, especially if fees or emoluments are annexed to the office; but there are matters of temporary and local concern which, although comprehended in the term office, have not been thought to be embraced by the Constitution, and when officers of that kind have been created the Legislature has sometimes made the appointment in the law which created them, sometimes giving the appointment to others than the Governor, and sometimes giving the powers of removal to others, although the appointment was made by the Governor." The officers of whom I am speaking are often described in acts of Assembly by the name of commissioners, such, for instance, as are employed in the laying out of roads and canals, and other works of a public nature, yet all these perform a duty, or, in other words, exercise their office. I cannot enumerate all of the employments under State authority which, in my opinion, work no disfranchisement, I will name some by way of illustration, viz: Boards of Commissioners of Public Works, Directors of State Asylums, Visitors of State Universities, Directors of State Penitentiaries, State Commissioners or Agents, appointed by the Governor or other State authority to perform special duties as examiners of banks, Notaries Public and Commissioners, to take acknowledgment of deeds. The rule laid down and these illustrations will, perhaps, be sufficient to determine who come within its operations.

The next disqualifying clause is founded on the oath of office. The oath, as incidental to the office, is not mentioned in the first disqualifying clause, but the office alone. But in the second clause the oath is made to enter as a necessary element in order to work disfranchisement, and is applied to the same classes of officers named

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